National Right to Work Committee®

Fact Sheet

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A COALITION OF EMPLOYEES AND EMPLOYERS

The PRO Act / Pushbutton Unionism Bill: A Union Boss Wish List

The misleadingly titled "Protecting the Right to Organize Act" is the centerpiece of Big Labor's Congressional agenda. It contains, as its flagship provision, the elimination of every single state Right to Work law in America. In addition to putting millions of workers back into the shackles of forced unionism, the bill contains virtually every Big Labor power grab that has been proposed over the last half-century.

This "**Pushbutton Unionism**" bill once again demonstrates that union officials will stop at nothing to force their so-called "representation" on every worker in America -- whether they want it or not.

Forced Unionism's Twin Pillars

Currently, federal labor law authorizes union officials to force working Americans in the private sector to pay union dues or fees in order to get or keep a job. This problem was created by Congress more than 80 years ago when it passed the National Labor Relations Act (NLRA) that framed federal labor law.

The twin sources of Big Labor's power are monopoly bargaining and forced dues. Union officials have fought long and hard for the power to force every worker to submit to their monopoly representation.

By exercising this power, euphemistically called "exclusive representation," they forbid individual workers to represent themselves.

Those same union officials then turn around and falsely complain that, because they represent non-paying workers (the very same workers whose right to self-representation they have just stripped away), they should be entitled to part of every worker's paycheck.

In essence, the federal government first forces union boss "representation" on workers, denying them the right to choose their own representation in the workplace, and then compounds the injury by forcing them to pay union dues or fees for that "representation" or be fired.

State Right to Work Laws and Section 14(b)

Since passage of Section 14(b) of the Taft-Hartley Act in 1947, states have at least had the ability to "opt out" of the NLRA's forced-dues provisions by passing state Right to Work laws. The Pushbutton Unionism bill would remove even that basic safeguard of workers' rights by amending the NLRA in order to neuter that provision, invalidating the Right to Work laws currently on the books in 27 states.

Right to Work laws simply prohibit union officials from forcing employees to pay union dues in order to work.

Studies have repeatedly shown that Right to Work states have a huge advantage in creating jobs and expanding their economies. For example, according to PHH Fantus, the nation's leading business relocation firm, half of all companies that are seeking to relocate or expand automatically rule out states without Right to Work laws. In fact, in the past decade, non-agricultural employment grew twice as fast in Right to Work states as in non-Right to Work states.

Individual citizens also benefit economically from Right to Work. A study by Dr. Barry Poulson, a past president of the North American Economics and Finance Association and current professor of economics at the University of Colorado, compared household incomes in 133 metropolitan areas in Right to Work states with those of 158 metropolitan areas in non-Right to Work states.

Among other results, he found that the average real income for households in Right to Work state metro areas, when all else was equal, was nearly $4,500 more than that in non-Right to Work state metro areas.

The fact is that compulsory unionism exerts a corrupting and economically destructive influence on all aspects of American life. Right to Work brings freedom to American workers, accountability to American unions and jobs to American cities. The Pushbutton Unionism bill seeks to rob 27 states of the benefits that their Right to Work laws have produced, and would preclude other states from also protecting their workers from forced fees.

Pushbutton Strikes

Since the United States Supreme Court's *McKay* decision in 1938, employers have retained the right to continue operations during a strike using new workers to replace those that will not work.

This employer right only exists when a strike occurs over economic issues. Under current law employers are prohibited from using replacement workers if the strike occurs because of a dispute in a contract.

The Pushbutton Unionism bill would change this to stop an employer from ever replacing striking workers, virtually guaranteeing Big Labor a victory in every strike they call.

Unionizing Independent Contractors

The NLRA gives Big Labor massive control over workers in America. However, the provisions of the NLRA do not currently apply to the millions of independent contractors nationwide, who work with much greater levels of flexibility.

The Pushbutton Unionism bill would change that by drastically limiting who can be classified as an independent contractor.

By adopting the so-called "ABC test" previously seen in California's disastrous AB5 and forcing it on every independent contractor in the country, the Pushbutton Unionism bill would give union bosses the power to force tens of thousands of workers, currently working as independent contractors, into unions against their will.

Card Check

The Pushbutton Unionism bill would empower the National Labor Relations Board (NLRB) to unilaterally overturn a workplace election, handing workers over to Big Labor without even the basic protection of a secret ballot vote.

That enables the union to impose itself on a workplace by coercing workers one-on-one (or more commonly three-on-one) into signing their so-called "union authorization cards," rather than by persuading the workers that the union has anything of value to offer them.

Under the process laid out by this bill, when workers vote against certifying a union, the NLRB would have the authority to throw out those results and install the union anyway based solely on objections filed by union bosses as long as the union has *ever* had a majority of so-called "certification cards," just like the ones in Big Labor's infamous "Card Check" scheme from a decade ago.

Combined with other changes in the Pushbutton Unionism bill that make it significantly easier for union objections to be sustained, this backdoor "Card Check" provision is yet another blatant attempt to wield the power of the federal government to force workers under the monopoly control of union bosses, even if they have voted against it.

Binding Arbitration on First Contract

The Pushbutton Unionism bill would empower the National Labor Relations Board (NLRB) to foist "binding arbitration" on an employer if they and the union can't agree to a contract after a few months of negotiations.

In other words, failure to acquiesce to enough union boss demands could be used as justification to force an employer to accept a contract written by a third-party.

This so-called "neutral arbiter" will have the power to write a contract and impose it on both the employer and the employees, even though he or she has nothing personally at stake because, unlike the employees, he won't lose his job if the company goes belly-up.

The employees wouldn't even get a chance to vote up or down on the government-written contract that could destroy their jobs.

Massive, Multi-Employer Bargaining Units

The Pushbutton Unionism bill perverts the Joint Employer Standard by codifying the Obama-era *Browning-Ferris* decision, thus allowing union bosses to force themselves on employees across multiple employers at once.

By creating massive coast-to-coast "bargaining units," Big Labor's plan is to rope in millions of employees and force them to pay dues.

And of course, since those employees are spread throughout separate corporations all across the country and have no way to communicate with one another, it would be virtually impossible for them to ever throw off Big Labor's yoke by decertifying the union.

Shutting Down Big Labor's Competitors

When a company's employees reject Big Labor, either at the ballot box or by refusing to even sign the union's petition, the offended union bosses often switch to their backup plan: Drive them out of business so the union doesn't have to compete with them.

Such union bosses believe they own the market, and will use any means at their disposal to drive anyone else out of it.

Big Labor's message is clear: Join and pay up, or we will destroy your job by putting your boss out of business.

Several of the Pushbutton Unionism bill's provisions are designed to help them shut down their competitors:

- Allowing union bosses to engage in "secondary coercion," including boycotts and pickets against consumers and businesses associating with a targeted employer;
- Allowing unions to engage in limitless "recognitional picketing" and other anti-competitive behavior against targeted businesses and their employees; and
- Empowering union bosses to harass non-union competitors and targets by bringing civil suits against employers, circumventing the existing NLRB process.

One-Sided Propaganda War

By reinstating the rescinded Obama-era "persuader rule" the Pushbutton Unionism bill increases the likelihood that employees will only hear the union bosses' side before getting a chance to vote on unionization.

It achieves this by making it much harder for employers to get confidential legal advice during an organizing drive.

This rule is designed to drive out of business the experts who help employers explain the downside of unionization to their employees, by vastly increasing their bureaucratic burden and nullifying their attorney-client privilege.

Without the aid of these professionals, Big Labor places employers in a no-win situation.

They can try to communicate with their employees on their own, in which case they'll almost certainly fall afoul of the incredibly complicated legal framework that governs what they are and aren't allowed to say, thus unintentionally committing the unfair labor practices that would trigger the "Card Check" provisions discussed above.

Or they can say nothing and give the union bosses' propaganda machine free reign over their employees' opinions.

Either way, Big Labor achieves their objective: Another group of employees that would have voted against them is now forced to pay dues.

Other Anti-Worker Provisions

This wish list of Big Labor's policy priorities contains a number of other arcane changes to established federal labor law. Each of these provisions is designed to give more power to union bosses at the expense of employees and employers alike:

- Prohibiting employers from informing their own employees of potential downsides to unionization, again to make sure employees only get to hear Big Labor's propaganda;
- Reversing the 2012 *Murphy Oil* decision, which affirmed the right of employers and employees to agree to collective action waivers;
- Removing employer standing in NLRB representation cases while also allowing the NLRB to hold employees personally liable for unfair labor practices; and
- Giving the Biden NLRB the authority to enforce its own biased rulings, eliminating judicial oversight.

Conclusion

Forced unionism is an assault on American workers and the American economy. It has a crippling effect on the nation's competitiveness, preventing hardworking Americans from being as productive as possible and destroying businesses and the jobs they provide or sending them overseas.

Protecting Right to Work isn't just good policy, however; it's the right thing to do. Compulsory unionism flies in the face of America's Founding Fathers and the Constitution. Thomas Jefferson once wrote that "*To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical*."

Even Samuel Gompers, considered to be the father of the modern American labor movement and founder of the American Federation of Labor, agreed, saying "*The workers of America adhere to voluntary institutions in preference to compulsory systems which are held not only impractical but a menace to their rights, welfare and their liberty*."

The Pushbutton Unionism bill is chock-full of provisions that, on their own, should each be enough to vote against the legislation. Taken as a whole, this Big Labor wish list amounts to nothing short of an unmitigated disaster for American workers and for our economy.

Instead of ripping away state Right to Work protections from millions of employees and further stacking the deck in favor of union bosses, Congress should instead be protecting the rights of all workers from this sort of abuse.